

Exhibit 39

MARK ANDERSON
DOE vs TRUSTEES OF DARTMOUTH COLLEGE

October 24, 2019

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEW HAMPSHIRE

3 -----x
4 JOHN DOE,)
5 Plaintiff,) 19-cv-00109-SM
6 vs.)
7 TRUSTEES OF DARTMOUTH COLLEGE,)
8 Defendant.)
9 -----x

9 DEPOSITION OF

10 MARK IRWIN ANDERSON

12 October 24, 2019

13 10:42 a.m.

15 1201 Third Avenue - Suite 4900

16 Seattle, Washington 98101

23 Reported Stenographically By:
24 Mayleen Ahmed, RMR, CRR, CRC
25 WA CCR No. 3402
Job No.: J4578187

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APPEARANCES OF COUNSEL

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On behalf of the Defendant:
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ALSO PRESENT:

BRIAN HOLLAND, ESQ., Dartmouth College
[Telephonically]

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1 Q. Yes. Mark, sometime in 2017, you were
2 served with a restraining order while you were a
3 student at Dartmouth College; correct?

4 A. Yes.

5 Q. And sometime in May of 2017, you were
6 arrested as a result of a violation of that
7 restraining order; is that correct?

8 A. Partially, yeah. I guess -- well, yeah,
9 the initial alleged violation.

10 Q. You were charged with violating the
11 restraining order; is that correct?

12 A. Yes.

13 Q. And you were charged in Grafton County,
14 New Hampshire; is that correct?

15 A. I can't remember.

16 Q. Do you have a recollection about whether
17 you ever went to court in connection with the
18 violation of that restraining order?

19 A. I did.

20 Q. And do you remember whether you went to
21 court in New Hampshire?

22 A. Yes. It was in New Hampshire.

23 Q. And when you went to court in New Hampshire
24 because of the alleged violation of the restraining
25 order, did you testify?

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1 you and the Trustees of Dartmouth College?

2 A. You'll have to -- again, I pressed for
3 information at some point earlier on. It was refused,
4 The request. I plan to make that same request for
5 information in a -- yeah, a formal legal requests for
6 production soon. After I receive that information,
7 you know, I guess those notes of the event that took
8 place more than six years ago would help refresh my
9 memory.

10 Q. Did you understand that your conduct at the
11 college would be governed by the student handbook?

12 A. I -- yes, I believe so.

13 Q. I didn't hear that.

14 A. Yes, I believe so.

15 Q. Did you understand, when you matriculated
16 at Dartmouth College, that if you violated provisions
17 of the student handbook, you could be subject to the
18 disciplinary procedure that was set forth in the
19 student handbook?

20 A. Yes, I understood that was a possibility.

21 Q. Did you understand, when you matriculated
22 at Dartmouth College, that there were any other
23 documents other than the student handbook that would
24 govern any disciplinary procedures that you would be
25 subject to if you violated the terms of the student

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1 on Standards hearing that Mr. O'Leary said you were
2 going to be able to present at the SOC?

3 A. Multiple Dartmouth employees said that I
4 would be able to share, yes, including Kevin O'Leary.

5 Q. So is your answer yes?

6 A. Yes, I believe so.

7 Q. I'll ask the same question with regard to
8 Rebecca Biron.

9 Do you contend that you were not allowed to
10 present material at the second Committee on Standards
11 hearing that Rebecca Biron had represented you would
12 be able to present at the second Committee on
13 Standards hearing?

14 A. Indeed, yes.

15 Q. Did you understand during the Committee on
16 Standards process, this is both a first hearing and a
17 second hearing, that ultimately it was the decision
18 of the chair as to what material would be allowed to
19 be introduced at the Committee on Standards hearing?

20 A. That was -- Kevin O'Leary made that point
21 later on after he -- yeah, I'm aware there's
22 something to that effect in the student handbook,
23 yeah.

24 Q. So you were aware that the student handbook
25 gave the chair the discretion about what could be

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1 the responsibility to be familiar with the guidelines
2 set forth in the student handbook with regard to the
3 Committee on Standards hearing before you went
4 through the Committee on Standards hearing?

5 A. Sorry. One more time?

6 MR. SMITH: Can you read that back?

7 (Record read.)

8 A. I had a sense that I was expected to be
9 familiar with the rules.

10 Q. So you understood that the Committee on
11 Standards hearing was controlled by the guidelines
12 set forth in the student handbook; correct?

13 A. Yes.

14 Q. Did you say yes?

15 A. Yes. Yes.

16 Q. And you were familiar with that before the
17 Committee on Standards hearing in September of 2017;
18 correct?

19 A. Sorry. Could I -- could I pull up on my
20 computer a full version of the student handbook, not
21 just this excerpt, and then have you repeat the
22 question? Which I kind of spaced out on because I
23 was thinking about that.

24 Q. You can pull up the full copy of the
25 student handbook?

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1 of my head, but it was sometime at the...

2 Q. Excuse me?

3 A. Sometime near the very start of the spring
4 term of 2017.

5 Q. Was it sometime in March of 2017?

6 A. I believe so.

7 Q. And was that served on you at the Dartmouth
8 campus?

9 A. Yes.

10 Q. And after that was served on you, did you
11 speak with anybody at Dartmouth about the restraining
12 order?

13 A. Yes.

14 Q. And who did you speak to?

15 A. I spoke with Safety and Security; I spoke
16 with -- I think I spoke with the Hanover police; and
17 I spoke with Kristi Clemens.

18 CERTIFIED STENOGRAPHER: "Kristi Clemens"?

19 THE WITNESS: Kristi Clemens, yes.

20 Q. Tell me about the conversation with security.

21 A. I don't know. That's a traumatic time. I
22 don't really remember.

23 CERTIFIED STENOGRAPHER: Did you say
24 "traumatic" or "dramatic"?

25 THE WITNESS: Traumatic.

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1 A. I cannot remember the exact date.

2 Q. Tell me what happened at that meeting with
3 Kristi Clemens.

4 A. At the meeting, she told me -- Kristi told
5 me that -- yeah, they had gotten the complaint, it
6 was concerning, so they decided they needed to meet
7 with me to discuss it and see what was going on.

8 At that time, I asked her if there would be
9 any further consequences regarding it. And Kristi
10 told me that the Judicial Affairs Office had
11 reviewed -- processed and reviewed of the complaint,
12 and decided that it wasn't appropriate to raise
13 disciplinary allegations against me regarding its
14 contents. She reassured me of that.

15 Q. Did she say that there would be no
16 consequences as a result of this?

17 A. She told me that it would count as a
18 warning/college reprimand, and that it wouldn't -- I
19 wouldn't have any formal disciplinary allegations
20 raised against me. But the information would, like,
21 be on my file, I guess.

22 Q. Did she put that in writing to you?

23 A. No. She told it to me in person.

24 Q. She told that to you in person?

25 A. Yes.

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1 restraining order; correct?

2 A. Yes.

3 Q. And that Kristi said to you that the
4 restraining order had been reviewed by the Judicial
5 Affairs Office; is that correct?

6 A. Yes.

7 Q. And that the Judicial Affairs Office had
8 decided at that time that they were not going to take
9 action as a result of the restraining order?

10 A. Yes. And the information in the report.

11 Q. And the information that was underlying the
12 restraining order; correct?

13 A. Yes. Yes.

14 Q. Did Kristi say that she would follow up
15 with you in writing to confirm what would happen as a
16 result of the restraining order and the underlying
17 documentation?

18 A. Not that -- well, to the best of my memory,
19 she, yeah, delivered the decision at our meeting, and
20 I don't remember hearing after that.

21 Q. Did Kristi ask you to undergo counseling?

22 A. I do not remember.

23 Q. Did she tell you that if additional
24 information was learned, that a judicial proceeding
25 could go forward as a result of the allegations in

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1 A. Yes.

2 Q. You spoke to at least one person at
3 Security Services, correct?

4 A. Sorry. What was the timing?

5 Q. This is before May of 2017 when you
6 violated --

7 A. Yes.

8 Q. -- the restraining order.

9 A. Yes. Yeah.

10 Q. But you did not --

11 A. I'm fairly certain.

12 Q. But my understanding is that you did not
13 speak to anybody at the Judicial Affairs Office about
14 the restraining order prior to your violation of the
15 restraining order, correct?

16 A. Correct.

17 Q. And there was no written document that was
18 sent to you from the Judicial Affairs Office --

19 A. No.

20 Q. -- prior to your violation of the
21 restraining order saying that they would either
22 proceed with an investigation or that they weren't
23 going to proceed with an investigation; correct?

24 A. I had not received anything in writing,
25 only the -- yeah. The communication that has been

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1 provided. Dartmouth provided it verbally, not in
2 writing. I believe.

3 Q. During the meeting with Kristi Clemens, did
4 she tell you that there could be disciplinary
5 proceedings in the future if you violated the
6 restraining order?

7 A. She told me that if I violated the
8 restraining order, then that, like, further action
9 could be -- allegations could be raised against me
10 regarding that action, and the other materials might
11 be viewed at the hearing, but they would not raise
12 allegations about those materials specifically.

13 Q. She specifically said that to you?

14 A. Yes.

15 Q. So you're saying that she specifically said
16 to you that there would be no further consideration
17 or disciplinary action resulting from your actions
18 prior to the issuance of the restraining order?

19 A. Yes. Yes.

20 Q. And, yet, she did not put that in writing
21 to you?

22 A. I do not believe so. And, you know, not
23 anticipating one would ever need such a thing, I did
24 not ask.

25 THE WITNESS: I really have to -- I just

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1 have to pee real quick. Should I just run? I'll be
2 like two minutes.

3 MR. SMITH: Yes.

4 (Recess taken from 12:42 p.m. to 12:44 p.m.)

5 BY MR. SMITH:

6 Q. Between the time that the restraining order
7 was served on you and the date of the violation of
8 the restraining order, did you have any further
9 conversations with either Kristi Clemens or anyone
10 from the Judicial Affairs Office about the
11 allegations that were set forth in the restraining
12 order?

13 A. I don't believe so.

14 Q. And did you have any further conversations
15 with anybody else on campus about the allegations in
16 the restraining order before the violation of the
17 restraining order?

18 A. I don't believe so.

19 Q. Mark, at some point in time, were you
20 arrested because you had allegedly violated the
21 restraining order that had been issued against you?

22 A. Yes.

23 Q. When was that?

24 A. I can't remember the exact date off the top
25 of my head.

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1 Q. And were you brought to the local jail as a
2 result of that?

3 A. Yes.

4 Q. And were you charged with violation of the
5 restraining order?

6 A. I believe so.

7 Q. And were you released from the jail that
8 day?

9 A. Within 24 hours, yeah.

10 Q. While --

11 A. I can't remember exactly what time I came
12 in and came out. But, yeah, it was definitely less
13 than 24 hours.

14 Q. And did you communicate with anybody at
15 Dartmouth on the date that you were arrested for
16 violating the restraining order?

17 A. Yes. I contacted Kristi Clemens in
18 order -- as I was stuck out at the jail and did not
19 have the means of getting back. I called her, and
20 she said that there was no other option than to get a
21 friend to drive me. So I -- yeah, one of my closest
22 friends borrowed a car and got me.

23 Q. So did you get your friend to come get you
24 and bring you back to campus?

25 A. Yes.

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1 A. Though I'm hesitant to confirm dates off
2 the top of my head, that sounds accurate.

3 (Exhibit 4 marked for identification.)

4 Q. I'm going to show you what has been marked
5 as Exhibit 4, Mark. I'll ask you to review that
6 document.

7 (Witness reviewing document.)

8 A. Okay.

9 Q. And were you notified on that date, May 10,
10 2017, that you had potentially violated the standards
11 set forth in the student handbook at Dartmouth?

12 A. Yes. The letter states:

13 "[I]t is alleged that on or about May 4,
14 2017, you communicated with parties in violation
15 of the restraining order...."

16 And then it goes on to say:

17 "This continued contact in violation of
18 the restraining order, if true, would be
19 violation of Standards II and VI."

20 Did you review this letter?

21 A. I reviewed it to some extent.

22 Q. What do you mean you reviewed it to some
23 extent?

24 A. I did not conduct a review of the
25 information in the initial report from, about, March.

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1 materials I was provided?

2 Q. Well, that's actually different than what I
3 asked you. So you're saying that your understanding
4 of what you would have to address in the Committee on
5 Standards hearing was the allegations that were made
6 in Exhibit 4?

7 A. Pardon me if this isn't answering your
8 question, then you can repeat it.

9 The allegations material and the packet
10 that I was provided, I believe, described the
11 allegations that the JAO had raised against me on or
12 about May 4th when it was alleged that I violated the
13 restraining order.

14 Q. Did you review -- actually, did you respond
15 to the allegations?

16 A. Yes, I believe I did.

17 (Exhibit 5 marked for identification.)

18 Q. I'm showing you what's been marked as
19 Exhibit 5. Do you want to take a moment to review
20 that?

21 (Witness reviewing document.)

22 A. Yeah.

23 Q. On the last page of Exhibit 5, it appears
24 to be dated September 11, 2017, and it has your
25 signature; is that correct?

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1 A. Yes.

2 Q. So did you fill this out?

3 A. Yes.

4 Q. And you denied both allegations; is that
5 correct?

6 A. At the advice of my adviser, I denied both
7 allegations.

8 Q. And this particular document says that
9 Kristi Clemens was going to be your adviser?

10 A. Yes. As was reflected in my answer to a
11 previous question, although you are free to ask for
12 someone to be your adviser, the college ultimately
13 has the ability to decide who they make available to
14 be your adviser. In this choice, Ann Hudak was
15 essentially chosen for me. I did not know her at
16 all.

17 Q. Down at the bottom of page 1, under "Type
18 of Hearing," it reads:

19 "I understand that I have been charged
20 with an offense that (if I am found responsible)
21 could merit a suspension or separation from the
22 College and that my case will therefore be
23 referred to Committee on Standards or an
24 individual hearing officer for adjudication and
25 imposition of a penalty."

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1 disciplinary proceeding was finished?

2 A. I do not believe so. And that didn't end
3 up being the case, I guess.

4 Q. Are you saying here today that you were not
5 told in May of 2017 that you would need to complete
6 your disciplinary process before you could be
7 reenrolled in Dartmouth?

8 A. Sorry. Repeat. I missed the date.

9 Q. Did you understand that before you could
10 start taking classes again at Dartmouth in the fall
11 of 2017, that you would need to complete the
12 disciplinary process in the Committee on Standards
13 hearing?

14 A. That was not apparent to me at the time --
15 at the very start of the fall term. However, I do
16 remember -- actually, that's all.

17 Q. Keep going.

18 A. That's all.

19 (Exhibit 7 marked for identification.)

20 Q. Mark, I'm going to show you what's been
21 marked as Exhibit 7. Is that an email exchange
22 between you and Katharine Strong?

23 A. Yes.

24 Q. And in that email exchange, were you told
25 by Katharine Strong that you would not be able to

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1 register for classes until you -- in the fall term
2 until you resolved the disciplinary hearing?

3 A. Yes. That's what the email states.
4 However, the -- yeah, the disciplinary -- the
5 disciplinary hearing was scheduled as soon as
6 reasonably possible; so...

7 Q. But at least in May of 2017, you were told
8 that until such time as the disciplinary hearing was
9 scheduled and concluded, you would not be able to
10 reenroll for classes at Dartmouth; correct?

11 A. Yes, that's what it says.

12 Q. And you had an understanding of that during
13 the summer of 2017?

14 A. Let's see. During the summer of 2017, I --
15 by virtue of the fact that I had to be on campus in
16 order to participate in the judicial hearing and that
17 it was happening as soon as possible in the term,
18 yeah, I guess. By the time the start of the fall
19 term had come around, I had -- this was not in my
20 mind.

21 Q. You understood, though, that if you wanted
22 to reenroll in classes at Dartmouth, that you would
23 have to resolve the disciplinary charges that had
24 been lodged against you?

25 A. I knew that in order to remain enrolled, I

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1 would certainly have to undergo a COS hearing, and,
2 you know, where the allegations which had been raised
3 against me would be evaluated.

4 Q. Now, Mark, if you could look at Exhibit 6.
5 Have you had chance to look at Exhibit 6?

6 A. Yes.

7 Q. And that exhibit is a letter to you from
8 Adam Knowlton?

9 A. Adam Knowlton-Young.

10 Q. Young.

11 A. I believe.

12 Q. And it notified you of the hearing date for
13 the Committee on Standards; correct?

14 (Witness reviewing document.)

15 A. Yes, it seems so.

16 Q. And so your hearing date was scheduled for
17 September 21, 2017; correct?

18 A. Yes, it seems so.

19 Q. And you were notified of the people who
20 would be members of the Committee on Standards;
21 correct?

22 A. Yes.

23 Q. Did you have an objection to any of the
24 people who were to serve on the Committee on
25 Standards?

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1 Q. Well, let me ask you this, Mark. You had
2 had the opportunity to review the student handbook
3 prior to your disciplinary hearing on September 21,
4 2017; correct?

5 A. Uh-hmm.

6 Q. Yes?

7 A. Yes.

8 Q. And did you understand that there was a
9 certain period of time within which you were allowed
10 to object to the people who had been named to the
11 Committee on Standards?

12 A. I believe.

13 Q. And you chose not to object to the people
14 who had been assigned to the Committee on Standards;
15 correct?

16 A. I believe so, yeah. Though, again, I'm
17 hesitant to go on the record and say anything,
18 like --

19 Q. What is that?

20 A. I'm hesitant to go on the record and say,
21 like, definitively that I certainly thought this, you
22 know, given that it was, like, multiple years ago.

23 Q. Let me ask you this: Did you know anybody
24 on the Committee on Standards that was identified to
25 you on September 11, 2017?

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1 A. I had no previous interactions or knowledge
2 of the individuals --

3 Q. And is that also --

4 A. -- in the Committee.

5 Q. -- true of the chair?

6 A. Yes.

7 Q. All right. So at least as of September 21,
8 2017, you had no reason to object to the people who
9 had been named to the Committee on Standards or the
10 Committee chair; is that correct?

11 A. Yes.

12 (Exhibit 8 marked for identification.)

13 Q. Mark, I'm showing you what's been marked as
14 Exhibit 8.

15 A. This is my personal copy of --

16 Q. Yes. I gave you a personal copy as well.

17 A. Is this a -- oh, yeah. Okay.

18 Q. Exhibit 8 is a letter that was sent to you,
19 a packet that was sent to you on September 19, 2017
20 from Lori Welch at the Office of Judicial Affairs,
21 and it includes a case packet. Did you receive that
22 case packet?

23 A. I believe so.

24 Q. Had you asked for any materials to be
25 included in the case packet prior to September 19,

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1 random individuals who had -- or random advisers who
2 had virtually no obligation to assist me and, you
3 know, whose go-to response, as Kristi Clemens said,
4 would be to tell me, "No, you should go with Anne
5 Hudak." You know, basically, I had already attempted
6 it once, and they told me, "No, go with your assigned
7 adviser." So, yeah.

8 Q. But you had an adviser who you could talk
9 to through the proceeding at the Committee on
10 Standards?

11 A. I had a college-assigned adviser who gave
12 me -- who prior to my hearing gave me advice, and
13 then would later go on to lie about her previous
14 statements.

15 I really have to use the bathroom again.
16 Sorry. Do you want me to go right now or do you have
17 any more questions you want to ask me real quick?

18 Q. I have more questions I'd like to ask.

19 A. Okay. I'll wait a couple of minutes.

20 Q. You had the opportunity to present your
21 side of the story at the hearing on September 21st;
22 correct?

23 A. I was given the opportunity to respond to
24 the allegations which had been raised against me.
25 And, again, I was specifically told to respond to

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1 those allegations and not speak about any matters
2 other than the specific, yeah, alleged violations.

3 Q. Were you asked during the September 21,
4 2017 hearing about any of the emails that you had
5 sent to the person who had been the complainant
6 against you prior to the restraining order going into
7 place?

8 A. I was asked questions about those emails.

9 Q. And did you answer questions to that?

10 A. I attempted to, yes.

11 Q. You attempted to?

12 A. Yes, I attempted to.

13 Q. How long did the hearing take?

14 A. I could not provide you a time estimate.

15 Q. Was there any information that you had
16 hoped to provide at that hearing that you weren't
17 able to on September 21, 2017?

18 A. Well, on account of me being -- tried for
19 different allegations than those raised against me in
20 advance of the hearing -- sorry. Repeat the question
21 one more time?

22 Q. Was there any information that you had
23 hoped to provide at the September 21, 2017 hearing
24 that you were not able to provide?

25 A. It's a difficult question to answer because

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1 I was presented one set of allegations; I was tried
2 for a different allegation. So I wasn't able to
3 provide all of the information that I would have
4 provided if the allegation I was found guilty of --
5 which wasn't raised in advance of the hearing -- had
6 been raised.

7 But, again, do you have one more question
8 you want to ask real quick?

9 Q. Go.

10 (Recess taken from 2:25 p.m. to 2:29 p.m.)

11 BY MR. SMITH:

12 Q. Mark, you participated in a Committee on
13 Standards hearing. When did you learn of the
14 decision of the Committee on Standards?

15 A. I can't recall the exact date off the top
16 of my head. Oh. Oh. That I received the Committee
17 on Standards decision? I believe it was the day
18 after the hearing.

19 Q. And how was the decision communicated to you?

20 A. It was at that time communicated to me
21 verbally.

22 Q. Who communicated it to you?

23 A. The chair of the hearing.

24 Q. Excuse me?

25 A. Daniel Nelson.

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1 people in the room. I don't remember what each
2 individual person was doing. But, you know, I
3 couldn't tell you if, like, any individual in the
4 room, like, said any particular thing, for the most
5 part at least.

6 Q. Did you give a final statement at the
7 Committee on Standards hearing?

8 A. Yes, I believe so.

9 Q. And did you do that after consulting with
10 your adviser?

11 A. I did that after the question period. Yes,
12 I did.

13 Q. What did you say in your final statement,
14 if you recall?

15 A. I can't -- I think it would be more
16 appropriate for you to refer to the recording than
17 for me to try to, you know, piece together for you.

18 Q. You have heard the recording that was made
19 by the school at your hearing; correct?

20 A. I do not believe that I have listened to
21 the recordings of the actual hearings. But, again,
22 I'm not, like, absolutely certain.

23 Q. Were they made available to you?

24 A. They have been made available to me.

25 Q. And you don't remember listening to them?

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1 privately at any point in time during the hearing?

2 A. I was not in the room for the majority of
3 the time that they were all together. And, again, I
4 don't remember, of -- there would be like ten people
5 in the room; I could not tell you who spoke directly
6 to who. It was a traumatic event, and it happened a
7 very long time ago.

8 Q. So your -- so you were found to have
9 violated Standard II of the student conduct --
10 Standard II of the standards of conduct of the
11 Dartmouth community; correct?

12 A. As a result of my initial hearing in
13 September 21, 2017, the Committee imposed a sanction
14 of expulsion upon me, and stated that this was
15 because I had violated Standard of Conduct II.

16 (Exhibit 11 marked for identification.)

17 Q. Mark, Exhibit 11 is a letter from Katharine
18 Strong to you dated September 22, 2017.

19 Was that a notification that you had
20 violated Standard of Conduct II, and that you would
21 be separated from the school effective immediately?

22 A. It was a notification that that was the --
23 well, I'll read it. The letter states:

24 "This is an official notification that
25 following your hearing on September 21, 2017, a

1 panel" -- "a panel of the Committee on Standards
2 has found that you violated College Standard of
3 Conduct II when you had repeated contact
4 targeted at an individual. The Committee made
5 no finding regarding the allegation that you had
6 violated Standard VI on or about May 4, 2017.
7 Based on these findings, you have been separated
8 from the college effective immediately."

9 Q. Were you told that you had the opportunity
10 to request a review of that decision?

11 A. The letter states:

12 "As you know, you have the right to
13 request review of the panel's decision. If you
14 wish to do so, your request must be in writing
15 and must set forth the specific grounds for
16 reconsideration."

17 Q. Did you discuss with Katharine Strong the
18 possibility of a request for review?

19 A. Yes.

20 Q. And did you have that conversation before
21 September 29th of 2017?

22 A. I would rather not speculate as to the
23 exact date of my conversation.

24 Q. I can't hear you.

25 A. I would rather not speculate as to the

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1 exact date of the conversation in September of 2017.

2 Q. Did you talk to your adviser about seeking
3 review of the decision?

4 A. Yes. I met with my adviser for -- I
5 believe I at least attempted to meet with my adviser
6 for a consultation on -- out of my request for
7 review. Although, she refused on several instances,
8 I believe.

9 Q. I need you to speak up louder.

10 A. Although, she refused to meet with me on
11 several instances, if I recall.

12 Q. Did Dartmouth fly your parents out to meet
13 with you and to go home with you after this decision?

14 A. They did do that.

15 Q. And did you refuse to travel with your
16 parents back to Seattle?

17 A. I did not refuse, but I elected not to
18 return home with my parents on account of the fact
19 that -- yeah.

20 Q. Did you understand that you would not be
21 allowed to remain on campus during the time period
22 that you were seeking review of the decision?

23 A. This was communicated to me.

24 Q. This was what?

25 A. I was told this, yes.

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1 Q. Mark, did you seek review of the decision?

2 A. Yes. I sought review of the decision of
3 the Committee.

4 Q. Were you given an extension of time within
5 which to seek review of the decision?

6 A. I believe so.

7 (Exhibit 12 marked for identification.)

8 Q. Mark, you have Exhibit 12 in front of you.
9 Is that your request for review?

10 A. It would appear so.

11 Q. Did you submit this on October 4, 2017 to
12 the Office of Judicial Affairs, if you remember?

13 A. That, I can't remember the exact date. But
14 somewhere around then at least, I think.

15 Q. Did you present all of the material that
16 you wanted to in your request for review to Rebecca
17 Biron?

18 A. I don't know. It's -- yeah, it's kind of
19 unbearable to read. And I was under so much stress
20 at that specific period, I -- I have a particularly
21 hard time recollecting.

22 CERTIFIED STENOGRAPHER: "I have a" --
23 what? -- "hard time recollecting"?

24 A. I have a particularly hard time
25 recollecting the days following my expulsion.

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1 correct?

2 A. At a new hearing, there would be a decision
3 about whether or not I -- the new set of allegations
4 raised against me were true.

5 Q. Let me state it a different way.

6 The review was granted by Dean Biron of the
7 initial decision, your request for review was granted;
8 correct?

9 A. That's what the letter states.

10 Q. Yes.

11 A. However, those are not my words.

12 Q. Your new -- strike that.

13 Did you receive a new allegation letter
14 after your request for review was granted?

15 A. After the request for review was granted, I
16 was handed a new allegation letter with allegations
17 that were materially different in substance than
18 those which had been raised against me in advance of
19 my first hearing.

20 Q. And you were told that you would have a
21 Committee on Standards hearing for those allegations;
22 right?

23 A. That's what I was told, yes.

24 Q. And you were going to have a new Committee
25 on Standards hear that, those allegations, correct?

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1 I'll just be restating what I said before.

2 Q. Did Dean Hudak continue to be your adviser
3 when you received that new --

4 A. Dean Hudak --

5 Q. -- October 26, 2017 allegation letter?

6 A. She continued to be my adviser.

7 (Exhibit 15 marked for identification.)

8 Q. Mark, I'm going to show you what's been
9 marked as Exhibit 15. Excuse me.

10 This is a letter dated October 27, 2017
11 from Katharine Strong that provided you with the
12 allegation letter as well as the Statement of
13 Understanding of Student Rights in Disciplinary
14 Matters, and a letter that was sent to your parents.

15 Did you receive this document on
16 October 27, 2017?

17 A. I believe I received it at about that time.

18 Q. And it set forth the allegations that were
19 being made against you; correct?

20 A. It set forth the new allegations which
21 Dartmouth had chosen to raise against me.

22 Q. Which Dartmouth what?

23 A. Which Dartmouth was now raising against me.

24 Q. Did you understand that you needed to
25 complete the form and send it back to the Office of

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1 my case. They had refused to answer it.

2 Mark Reed told me that any reasonable
3 person in my situation would not be mentally fit to
4 participate in a COS hearing at the date provided.
5 And so he delayed it, basically. Yeah, he called
6 them to delay it. And it became complicated in that
7 Katharine Strong told Mark Reed that I would be given
8 so much time to fill out the thing. And then,
9 inexplicably, would then later on go to impose a
10 sanction upon me for -- for not meeting a deadline
11 that she had extended.

12 Q. Mark, while this second proceeding was
13 pending, did you understand that you were still not
14 to enroll in class at Dartmouth?

15 A. During the second proceeding? Yeah.

16 Q. Excuse me?

17 A. Yes.

18 Q. So you understood that until the
19 judicial -- or until the proceedings were resolved,
20 you were not going to be permitted to enroll in
21 campus -- or in classes; correct?

22 A. Yeah.

23 Q. And during that period of time, were you
24 also to not live on campus?

25 A. No. I was not to.

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1 Q. Excuse me?

2 A. I was not supposed to live on campus.

3 Q. So you understood as of the initial
4 allegations that were made in May of 2017, that until
5 they were resolved, one, you couldn't enroll in
6 classes and, two, you weren't allowed to live on
7 campus; correct?

8 A. Yeah.

9 Q. And during that fall -- strike that.

10 And you also understood that campus
11 included your fraternity; right?

12 A. I mean, the fraternities are privately
13 owned, so not necessarily. Yeah. I was told not to
14 stay in my own fraternity. Although, yeah -- yeah.

15 Q. So you understood, until the allegations
16 were resolved, you weren't to enroll in classes, you
17 weren't to live on campus, and you weren't to live in
18 your fraternity; correct?

19 A. That is what Kristi Clemens had instructed,
20 yes.

21 Q. In May of 2017; correct?

22 A. Yes.

23 Q. Add during the fall of 2017, you violated
24 that by living at your fraternity house; isn't that
25 correct?

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1 A. Well, it was -- I had to go there to get
2 belongings and whatnot. But I did live there to some
3 extent. But, primarily, to the extent I could, I did
4 not.

5 Q. So you stayed at Bones Gate, which was your
6 fraternity, throughout much of the fall of 2017,
7 including part of September of 2017 and October of
8 2017; correct?

9 A. I couldn't recall the exact dates.

10 Q. But you spent at least some nights at Bones
11 Gate in September and October of 2017; correct?

12 A. September and October? I'm not totally
13 sure.

14 Q. Did you have a room that had been assigned
15 to you at Bones Gate in September and October of
16 2017?

17 A. I did, yeah.

18 Q. And did you stay in that room at least some
19 nights of September and October of 2017?

20 A. I'm not sure exactly when I stayed there.
21 But I'm sure I had to stay there at some point when
22 it wasn't possible for me to stay the -- yeah, when
23 it was just logistically impossible for me to stay
24 anywhere else.

25 Q. Where else were you staying in September

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1 Q. Did you understand that the extension was
2 contingent on you taking a medical leave from
3 Dartmouth?

4 A. Yes. However, and the reason that...
5 I'm not sure if I agree with the premise,
6 yeah, given the circumstances to full -- time of your
7 question.

8 Q. Let me ask you this: Was there a
9 recommendation made to you that you should take a
10 medical leave from Dartmouth College?

11 A. That was recommended to me, yes.

12 Q. And was that a recommendation that was made
13 by Mark Reed?

14 A. That recommendation was made by Mark Reed,
15 yes.

16 Q. And did you understand that if you took a
17 medical leave from Dartmouth College, that you would
18 be granted an extension of time for the disciplinary
19 proceeding arising out of the allegation letter dated
20 October 27, 2017?

21 A. One more time?

22 MR. SMITH: Can you read that back?

23 (Record read.)

24 A. I believe that was expressed to me, yes, by
25 at least Mark Reed.

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1 Q. And did you understand that if you declined
2 to take the medical leave, that the disciplinary
3 proceeding would move forward?

4 A. Yes.

5 Q. And did you decide not to move forward with
6 the medical leave?

7 A. Yes, I did decide that. All...

8 I remember there was some confusion around
9 it. I was interested, but then he told me something
10 about it and it seemed not good. And I think he was
11 going to look at other options or something. And,
12 then, while he was looking at other options -- yeah.

13 Q. At any point in time, were you notified
14 that your Committee on Standards hearing would move
15 forward? Let me actually rephrase that.

16 (Exhibit 16 marked for identification.)

17 THE WITNESS: I'm going to run to the
18 bathroom real quick?

19 (Recess taken from 3:22 p.m. to 3:29 p.m.)

20 BY MR. SMITH:

21 Q. You have Exhibit 16 in front of you, right,
22 Mark?

23 A. I do.

24 Q. On December 8, 2017, were you notified that
25 you would be required to attend the Committee on

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1 Standards hearing on Monday, January 8, 2018?

2 A. Yes.

3 Q. And were you told who would sit on your
4 Committee on Standards hearing?

5 A. I was not given an accurate list of the
6 individuals who would go on to serve.

7 Q. Well, let me break that down.

8 The Committee chair identified in this
9 letter, dated December 8, 2017, was designated as
10 Dean Liz Agosto. And she was not the Committee chair
11 on your January 8, 2018 hearing; correct?

12 A. That's correct.

13 Q. And the person who was the Committee chair
14 at that hearing was Katharine Burke; correct?

15 A. Yes.

16 Q. And you weren't notified about that until
17 the day of the hearing; is that correct?

18 A. Until, literally, the start of the hearing,
19 yes.

20 Q. The other members of the Committee on
21 Standards did not change; is that right?

22 A. I believe that is correct.

23 Q. Okay. So the chair changed, but the people
24 who would make the decision about the violation and
25 what the penalty for that violation would be did not

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1 change; correct?

2 A. Repeat the -- repeat the question?

3 Q. The members of the Committee on Standards,
4 the ones who would make the decision about whether
5 there was a violation and then would make a decision
6 about what the sanction would be did not change from
7 December 8th to January 8th when your hearing
8 actually occurred?

9 A. If one does not consider the Committee
10 chair to be a part of that group, it would make that
11 statement correct.

12 (Exhibit 17 marked for identification.)

13 Q. Showing you what's been marked as
14 Exhibit 17. It is a letter dated January 4, 2018,
15 written by Adam Knowlton-Young, who is the assistant
16 director of judicial affairs.

17 Did you receive that packet on January 4,
18 2018, Mark?

19 A. I think so.

20 Q. Let me direct your attention to --

21 A. "The information at" -- yes. It looks like
22 it.

23 Q. So page 4 of the packet, you admitted on
24 that page that you had violated --

25 A. Page? Oh.

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1 Q. -- the Dartmouth Standard of Conduct II; is
2 that correct?

3 A. Yes.

4 Q. Did you understand that you were admitting
5 that allegation?

6 A. I understood -- yes. Yeah, at the
7 suggestion of my adviser.

8 Q. Who is that?

9 A. Anne Hudak.

10 Q. And why did she suggest that you should
11 admit that?

12 A. Because she said the other option
13 definitely didn't work the other time.

14 Q. And did you disagree with her about that?

15 A. Well, the new allegations, I -- you know, I
16 do admit that the messages I did send prior to the
17 spring term, a period in which the new allegations
18 encompass, were, you know, inappropriate.

19 Q. Would you agree that those communications
20 were harassing behavior targeted at an individual?

21 A. Restate the question? Could you be more
22 specific?

23 Q. I said, would you agree that the
24 communications in January, February, and March of
25 2017 constituted harassing behavior targeted at an

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1 individual?

2 A. I mean, it was -- yeah, at some points, yes.

3 Q. And so while Dean Hudak recommend that you
4 admit the allegation, you yourself would admit that
5 the allegation was true; correct?

6 A. Well, it's difficult to say in that the
7 material was reviewed, what does or does not
8 constitute a sanctionable violation of the standards
9 of conduct, or one where they're raising an
10 allegations against a student is -- there is
11 information not made available to the students that
12 would -- that is required to understand those things.

13 According to the Judicial Affairs Office
14 and the people responsible for conducting the
15 school's disciplinary procedures, the individuals
16 that reviewed the complaint on the date it was
17 received, these actions, were not a violation of the
18 standards which would -- well, I guess they -- you
19 know, again, I was told it was the equivalent of,
20 like, a warning. So it is a violation of the
21 standards, but not to the extent that would warrant
22 expulsion.

23 Q. So let me go back to my question, which
24 was: While Dean Hudak recommended that you admit the
25 allegations, you also would agree that the

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1 of that determination; right?

2 A. No. Other than -- no.

3 Q. In this packet, it appears that you
4 provided information to the Committee on Standards;
5 is that correct?

6 A. I attempted to provide information, but the
7 vast majority of them was omitted.

8 Q. Well, this was part of the case packet?

9 A. Sorry? "This" being?

10 Q. Excuse me?

11 A. "This" being Dartmouth 17?

12 Q. Look at Exhibit 17. On the third page of
13 Exhibit 17 --

14 A. Yeah. This is the -- these are the -- I
15 think these are the excerpts, yep.

16 Q. And so those are materials that you asked
17 to be included in the packet; correct?

18 A. This was a fraction of the materials which
19 I submitted to be shown to the COS.

20 Q. Do you know whether they were shown to the
21 COS?

22 A. These are the pages that Dartmouth's
23 administrators determined I would be allowed to show
24 the COS.

25 Q. Did you understand that the chair had the

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1 subjected to to the COS.

2 When I presented Burke with this
3 information, I also had to make sense of the fact,
4 that, yes, the handbook stipulates that the -- that
5 the chair is responsible for evaluating that
6 information. In my case, the chair did not evaluate
7 the information.

8 I asked her to evaluate the information.
9 She said that she would not. I gave her -- at her
10 request, I forwarded her an email from Dartmouth's
11 general counsel member who was responsible for
12 overseeing disciplinary affairs, and, according to
13 him, ensuring that the college's employees obey its
14 own policies. I can't remember where I was.

15 Q. So if I understand it correctly, as
16 permitted under the student handbook, Dean Burke
17 declined to allow certain materials to be considered
18 by the Committee on Standards even though you had
19 requested that the materials be submitted; is that
20 right?

21 A. No.

22 Q. You're saying -- if I understand your
23 testimony, Mark, you're saying: I wanted certain
24 materials to be presented to the Committee on
25 Standards, and Dean Burke did not allow me to present

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1 those materials?

2 A. That is correct. I wanted to share
3 information, and she would not let me share that
4 information.

5 Q. And she had the discretion to do that; is
6 that not correct?

7 A. I do not -- I'm not sure if I would agree
8 with that assessment.

9 Q. The student handbook gives the authority to
10 the chair to decide what materials would be submitted
11 to the Committee on Standards and what materials
12 won't be; isn't that correct?

13 A. Yes.

14 Q. Did you proceed with the hearing on
15 January 8, 2018?

16 A. I believe so, yes.

17 Q. And were you informed on January 9, 2018,
18 that you had been found to violate the standards of
19 conduct at Dartmouth?

20 A. Yes, I believe so.

21 Q. Were you informed that the decision by the
22 Committee on Standards had been to separate you from
23 the college effective immediately?

24 A. I believe so.

25 (Exhibit 18 marked for identification.)

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1 wrote giving feedback on how Dartmouth was processing
2 the complaint, which I feel is, you know, pretty --
3 pretty good evidence.

4 Q. Mark, were you given an opportunity to
5 request a review of the January 8, 2018 decision by
6 the Committee on Standards?

7 A. I was given the opportunity to submit one.

8 Q. And did you?

9 A. I was told to write it to Dean Rebecca
10 Biron, which is problematic. I wrote it to her, and
11 David Kotz reviewed it instead.

12 (Exhibit 19 marked for identification.)

13 Q. Is that 19?

14 A. I believe so.

15 Q. Mark, is Exhibit 19 your request for review?

16 A. I believe so. With some other documents
17 included.

18 Q. Are those documents that you did not provide?

19 A. No.

20 (Witness reviewing document.)

21 Q. Have you seen that document before?

22 A. No.

23 Q. I don't think that was actually supposed to
24 be attached to this, so I'd ask for it back. Those
25 were not supposed to be attached to that.

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1 A. I am compelled to return this?

2 Q. Yes.

3 A. (Witness complying.)

4 Q. Mr. Anderson, you made a request for
5 review; is that correct?

6 A. Yes. Yes.

7 Q. And you received a response to that; right?

8 A. Yes.

9 (Exhibit 20 marked for identification.)

10 Q. Is Exhibit 20 the response to your request
11 to review?

12 A. Yes.

13 Q. Do you understand that that request to
14 review was made by David Kotz?

15 A. Yes.

16 Q. And that was denied; correct?

17 A. Correct.

18 Q. Now that you have a copy of the student
19 handbook, can you identify the specific provisions of
20 the student handbook that you allege were violations
21 or breaches of contract?

22 A. Sorry. One more time?

23 Q. You now have copies of the student
24 handbook. Can you now identify specific provisions
25 of that handbook that were breached by Dartmouth?

1 Q. That was your complete answer? Okay.
2 Fine. My apologies.

3 Mark, you have a claim that you were
4 discriminated as a result of your gender, correct, in
5 the case?

6 A. Yes.

7 Q. And that's the only discrimination claim
8 you're making in this case; correct?

9 A. Yes.

10 Q. You say that you were treated differently
11 than two other female students who are accused of the
12 same conduct violations; is that correct?

13 A. Yes.

14 Q. Can you identify those students?

15 A. I can. I guess this is a private -- is
16 this like public?

17 Q. Well, you know those students?

18 A. So, yeah, I've been told that #1
19 #1, and I don't know if it's #2 or
20 her sister.

21 Q. And tell me what the allegation was against
22 #1.

23 A. Well, these are, like, some of the only --
24 you know, students don't have access to any
25 information regarding previous. But according to her

1 ex-boyfriend, #1 [REDACTED], stating -- the guy's
2 name is #3 [REDACTED]. And he broke up with her, and she is
3 persistently, like, stalking him. So either the
4 college or the state gave her an order to not make
5 contact with him again.

6 So then she perpetrated a rouse by which
7 she pretended that she was her mom and was speaking
8 to the ex-boyfriend, pretending that she was her own
9 mom trying to, like, compel him to make contact with
10 her again by -- yeah. I can give you more detail if
11 you'd like.

12 CERTIFIED STENOGRAPHER: Did you just say:
13 "I can give you more detail if you'd like"?

14 THE WITNESS: Yes.

15 CERTIFIED STENOGRAPHER: Okay.

16 Q. Do you know whether she was sent an
17 allegation letter as a result of this conduct?

18 A. I do not believe she was.

19 Q. Do you know whether it was reported to the
20 Office of Judicial Affairs?

21 A. It was reported to the school, which the
22 Judicial Affairs investigates all incoming
23 information. Right?

24 Q. Do you know whether she was charged with
25 violating a restraining order?

1 A. I'll have to wait till the file is shared
2 in the discovery process to get back to you with more
3 details on that.

4 Q. Well, you made a specific allegation in the
5 complaint. Do you have an understanding of whether
6 that happened or not?

7 A. Oh, she was -- I know that she was ordered
8 not to make contact in some official capacity. I'm
9 not sure exactly what official capacity that was.

10 Q. But you don't know whether she was found to
11 have violated a restraining order?

12 A. I -- yeah, I'm not totally certain.

13 Q. And do you know whether Dean Biron had
14 anything to do with deciding whether she would be
15 found to have violated the code of conduct for
16 Dartmouth?

17 A. Sorry. One more time?

18 Q. Do you know whether Dean Biron had any
19 involvement with the investigative process in
20 determining whether a violation letter would be sent
21 to #1 [REDACTED]?

22 A. I do not know the -- it is impossible for
23 me to know such specifics of other people's dealings,
24 you know, private, protected dealings with the
25 college. It is what I've heard, yeah, which is,

1 again, the only source of information available, you
2 know, virtually anywhere.

3 Q. Who provided this information to you?

4 A. The boyfriend.

5 Q. Do you know who was the other student that
6 you identified?

7 A. His name is #3 .

8 Q. Excuse me?

9 A. His name is #3 .

10 Q. But who was the other female student that
11 you said was treated differently than you?

12 A. Oh, I know of a girl in my grade by the
13 last name #2 , I believe, who wrote about it
14 openly. Like she was mad at her boyfriend after he
15 broke up with her, so she went to, like, vandalize
16 his car. Yeah.

17 Q. Do you know whether she was investigated by
18 the Judicial Affairs Office?

19 A. I'm not sure.

20 Q. Do you know whether anybody reported it to
21 the Judicial Affairs Office?

22 A. That much is not known to me.

23 Q. So do you have any understanding of whether
24 she received any sanctions as a result of her conduct?

25 A. It would appear that she did not. However,



1 I do not know with certainty the details of other
2 people's disciplinary processes with the college or
3 lack thereof.

4 Q. Do you know whether she made any threats of
5 physical harm to her former boyfriend?

6 A. I'm not privy to their conversations, no.

7 Q. And the same question with regard to #1
8 #1. Do you know whether she made any threats
9 of physical harm to her former boyfriend?

10 A. She -- not that she would harm him, but
11 that she would harm herself, I guess.

12 Q. Do you know whether she threatened to
13 expose any nude pictures of her former boyfriend?

14 A. I do not believe that was an element of the
15 case.

16 CERTIFIED STENOGRAPHER: That was?

17 THE WITNESS: I do not believe that was an
18 element of the case.

19 Q. And with regard to #2, Ms. #2, do
20 you know whether she threatened to expose any nude
21 pictures of her former boyfriend?

22 A. I do not believe that was the case.

23 Q. What is your basis other than an article
24 that Dean Biron wrote, that you were discriminated
25 against as a result of your sex?

1 #1 [REDACTED] ?

2 A. I do not know the details, precise details
3 of #1 [REDACTED] ' disciplinary record, or lack
4 thereof, at Dartmouth College at this point.

5 Q. So you're purely speculating that Katharine
6 Strong had any involvement with any investigation
7 that might have occurred with regard to #1 [REDACTED]

8 #1 [REDACTED] ?

9 A. Oh, well, the student handbook states --
10 well, I'm speculating that on this occasion she
11 abided by the student handbook which states the JAO
12 director will review all determinations regarding
13 student behavior.

14 Q. Well, you're speculating first that there
15 was an investigation of Ms. #1 [REDACTED], right? You
16 don't know that to be true; correct?

17 A. I don't know if they decided it was worthy
18 or appropriate to raise an investigation. I don't
19 know what conclusion the JAO came to.

20 Q. You don't know even whether they considered
21 it; correct?

22 A. No. No. Again, I do not know the details
23 of virtually -- like, I do not know the details of
24 virtually any other disciplinary case other than my
25 own with absolutely certainty as is the case of

1 virtually every Dartmouth community -- members of the
2 Dartmouth community regarding other people's
3 disciplinary cases, just because of the school's own
4 policy which prevent you from accessing that
5 information; and necessitate, if you are to do such
6 analysis, as I am, that you must get information from
7 people who are, you know, willingly providing it.

8 Q. And with regard to Ms. #2, you don't
9 have any specific information with regard to any
10 consideration of her conduct by the Judicial Affairs
11 Office; correct?

12 A. My previous statement applies to that as
13 well.

14 Q. And so the answer is yes?

15 A. To the extent that my previous answer would
16 imply; so...

17 Q. So actually, the answer is, no, you do not
18 have any specific information with regard to any
19 investigation that the Judicial Affairs Office has
20 done of any conduct involving Ms. Donald; correct?

21 A. Yes. As is true for every member of the
22 Dartmouth community. Due to the college's own
23 policies, it is virtually impossible for anyone to
24 have the knowledge you were describing, you know,
25 with absolutely certainty unless, for some reason --

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1 which I don't think anyone has ever published their
2 own disciplinary records. So, yeah, so the question
3 doesn't really make sense to me.

4 Q. Mark, you make a claim for negligent
5 infliction of emotional distress in your complaint.

6 Can you identify for me the physical
7 symptoms that you've experienced as a result of the
8 negligent infliction of emotional distress?

9 A. Yes. Exactly what point in time are you
10 referring to?

11 Q. Why don't we take from September of 2017 to
12 January of 2018? So the beginning of September 2017
13 to the end of January 2018.

14 A. Wait. The end of December 2017?

15 Q. No. Beginning of September 2017 to the end
16 of January 2018. Can you identify for me the
17 objective physical symptoms that you experienced as a
18 result of the alleged negligent conduct of Dartmouth?

19 A. Yes. I could not eat; I could not sleep;
20 my heart hurt all the time. Yeah, I -- yeah. I had
21 to -- yeah. I was, like, also stuck inside like a
22 small, dark room not able to leave.

23 Q. Other than Mark Reed, were you treating
24 with any health care provider, medical doctor, or
25 nurse practitioner from the beginning of September

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UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

MARK ANDERSON,

Plaintiff,

vs.

TRUSTEES OF DARTMOUTH COLLEGE,

Defendant.

)
) Case No.

)
) 1:19-cv-001109-SM

DEPOSITION OF

MARK I. ANDERSON, VOLUME II

December 9, 2019

10:24 a.m.

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

Eva P. Jankovits, CCR No. 1915

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DESCRIPTION

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PREVIOUSLY MARKED EXHIBITS

NO. DESCRIPTION

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(No exhibits marked for identification.)

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1 would happen.

2 Q. Did Kristi Clemens communicate to you that if
3 you violated the restraining order that disciplinary
4 action could be taken against you?

5 A. I -- I believe that she represented to me that
6 if I violated the restraining order, then that subsequent
7 action could be subject to disciplinary allegations or
8 procedures.

9 Q. Can you tell me the specific words that she
10 used communicating to you?

11 A. To any questions where you're asking for
12 specific words in an event that happened over six months
13 ago, my answer is going to be I -- I cannot give you an
14 answer under oath that I could be, you know -- yeah. I
15 think it's sort of an exceptional ask to give the exact
16 wording of the substance of the conversation.

17 MR. SMITH: Can you read that back for me?

18 THE WITNESS: Do you know how much time we
19 have?

20 MR. SMITH: What's that?

21 THE WITNESS: Do you know how much time we have
22 left?

23 MR. SMITH: At least an hour.

24 THE WITNESS: An hour, okay.

25 MR. SMITH: At least an hour.